

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COREY DOTSON,

Petitioner,

v.

CASE NO. 2:13-10080
HONORABLE ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

DUNCAN MACLAREN,

Respondent.

/

**OPINION AND ORDER DENYING AS MOOT PETITIONER'S MOTION FOR AN
EXTENSION OF TIME TO FILE A NOTICE OF APPEAL**

On September 22, 2014, this Court denied petitioner's habeas application that had been brought pursuant to 28 U.S.C. § 2254, but granted petitioner a certificate of appealability and leave to appeal *in forma pauperis*. *Dotson v. MacLaren*, No. 2:13-CV-10080; 2014 WL 4705115 (E.D. Mich. September 22, 2014). On October 12, 2014, petitioner signed and dated a notice of appeal, which was filed with this Court on October 21, 2014. [Dkt. # 17].¹ On November 20, 2014, petitioner filed a motion for extension of time to file a notice of appeal. For the reasons that follow, the motion for an extension of time to file an appeal is DENIED AS MOOT.

¹ Under the "prison mailbox rule," petitioner's notice of appeal was filed on October 12, 2014, the date that it was signed and dated by petitioner. *Houston v. Lack*, 487 U.S. 266, 270-71 (1988).

Dotson v. MacLaren, 2:13-CV-10080

Fed. R. App. P. 4 (a)(1) states that a notice of appeal must be filed within thirty days of the entry of the judgment or order from which the appeal is taken. This time limit is mandatory and jurisdictional. *Browder v. Director, Department of Corrections of Illinois*, 434 U.S. 257, 264 (1978). The failure of an appellant to timely file a notice of appeal deprives an appellate court of jurisdiction. *Rhoden v. Campbell*, 153 F.3d 773, 774 (6th Cir. 1998).

This Court issued its judgment on September 22, 2014. Petitioner had until October 22, 2014 to file a notice of appeal. Petitioner filed his notice of appeal on October 12, 2014, within the 30 days for filing a notice of appeal. In light of the fact that petitioner's notice of appeal was timely filed, his motion for an extension of time to file an appeal is now moot. See *Steele v. Supreme Court of U.S.*, 255 Fed. App'x. 534 (C.A.D.C. 2007).

IT IS ORDERED that petitioner's Motion for an Extension of Time to File a Notice of Appeal [Dkt. # 17] is **DENIED AS MOOT** on the ground that his Notice of Appeal was timely filed.

S/Arthur J. Tarnow

Arthur J. Tarnow

Senior United States District Judge

Dated: February 12, 2015

I hereby certify that a copy of the foregoing document was served upon parties/counsel of record on February 12, 2015, by electronic and/or ordinary mail.

S/Catherine A. Pickles

Judicial Assistant